

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200716030	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 09/16/2007 11:00 PM	Location of Incident: West 125th Street and 7th Avenue	Precinct: 28	18 Mo. SOL 3/16/2009	EO SOL 3/16/2009	
Date/Time CV Reported Wed, 10/31/2007 12:59 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/02/2007 1:18 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Christoph Siani	04029	919712	032 PCT
2. POM Daniel Ehrenreich	26393	932597	032 PCT
3. POM Aaron Thorn	17386	907442	032 PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Carlos Castillo	19775	943064	032 PCT
2. POM Frederic Disla	10123	936498	028 PCT
3. POM Andrew Ehlers	23706	941701	028 PCT
4. POM Kevin Lopez	10246	942077	028 PCT
5. POM Richard Pengel	17040	933161	032 PCT
6. POM Ariel Castillo	11787	936317	028 PCT
7. POM Kenneth McNair	07895	939002	028 PCT
8. POM William Butler	00691	933664	032 PCT
9. POM Delwyn Davis	24664	932525	032 PCT
10. POM Eric Paras	20526	904751	032 PCT
11. POM Michael Gallow	07199	932681	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	
B. An officer	Force: An officer used pepper spray against § 87(2)(b) [REDACTED]	
C.SGT Christoph Siani	Force: Sgt. Christopher Siani used physical force against § 87(2)(b) [REDACTED]	
D.POM Daniel Ehrenreich	Force: PO Daniel Ehrenreich used physical force against § 87(2)(b) [REDACTED]	
E.POM Aaron Thorn	Force: PO Aaron Thorn used physical force against § 87(2)(b) [REDACTED]	

Officer(s)	Allegation	Investigator Recommendation
F.SGT Christoph Siani	Discourtesy: Sgt. Christopher Siani acted rudely toward § 87(2)(b)	
G.SGT Christoph Siani	Force: Sgt. Christopher Siani used physical force against § 87(2)(b)	
H. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	

## Synopsis

On September 16, 2008, at approximately 10:00 PM, § 87(2)(b) was walking on Adam Clayton Powell Jr. Boulevard near West 127<sup>th</sup> Street in Manhattan. He had attended the African-American Day Parade earlier that day with his nephew, § 87(2)(b) and two of § 87(2)(b) companions, § 87(2)(b) and § 87(2)(b). A crowd formed behind § 87(2)(b). An officer, whom the investigation was unable to identify, pushed § 87(2)(b) on his back (**Allegation A**). A second officer, whom the investigation was unable to identify, then pepper sprayed § 87(2)(b) on his chin and mouth (**Allegation B**). When § 87(2)(b) recovered from the effects of the pepper spray, he looked for the officers in order to obtain their names and shield numbers. § 87(2)(b) accompanied him.

When they were unable to find them, § 87(2)(b) and § 87(2)(b) began walking towards the subway station, located at West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue in Manhattan. They walked past a group of officers, identified through the investigation as Sgt. Christopher Siani, PO Daniel Ehrenreich, PO Richard Pengel, PO William Butler and PO Aaron Thorn from the 32<sup>nd</sup> Precinct. § 87(2)(b) shouted, “Fuck the police!” as he passed by them. § 87(2)(b) was then punched repeatedly and brought to the ground, where he felt himself kicked (**Allegation C, D and E**). § 87(2)(b)'s lower lip was bleeding. An ambulance responded to the scene and he was transported to § 87(2)(b) Hospital. § 87(2)(b) began to record the incident with the camera on his cellular telephone. He alleged that Sgt. Siani hit the cellular telephone out of his hand (**Allegation F**) and pulled him to the ground by holding his arms behind his back (**Allegation G**). As a result of being pulled to the ground, § 87(2)(b) injured his left ankle.

§ 87(2)(b) was handcuffed and transported to the 28<sup>th</sup> Precinct, where he was issued a summons for disorderly conduct. § 87(2)(b) privately sought medical attention at § 87(2)(b) Hospital Center on § 87(2)(b), where he was treated for pain in his left ankle. When § 87(2)(b) went to § 87(2)(b) Hospital on the day of the incident, he was given eleven sutures for the laceration on the upper left side of his lip. § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

## Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b). § 87(2)(b) filed a complaint with Internal Affairs on September 18, 2007, at 12:20 PM (encl. 3a – 3b) and was interviewed by Internal Affairs on September 18, 2007, at 4:25 PM (encl. 5a – 5c). The CCRB received his complaint on November 2, 2007 (encl. 4a – 4c). § 87(2)(b) provided a brief telephone statement on November 20, 2007 (encl. 6a – 6b). § 87(2)(b) was interviewed at the CCRB on November 27, 2007 (encl. 7a – 7j). § 87(2)(b) also

made statements to medical personnel between § 87(2)(b) (encl. 42a – 42d; encl. 43a – 43g). § 87(2)(b) filed a notice of claim regarding the incident on December 11, 2007 (encl. 8a – 8f) and testified during a 50H hearing on § 87(2)(b) (encl. 9a – 9gg). § 87(2)(b) was presented with a photo array on July 3, 2008 (encl. 10a – 10w). § 87(2)(b)'s statements have been combined with inconsistencies noted below.

On September 16, 2007, § 87(2)(b) and his uncle, § 87(2)(b) went to the African American Day Parade at approximately 3:00 PM. They were with § 87(2)(b) and § 87(2)(b) acquaintances of § 87(2)(b). They purchased a pint of alcohol, which they consumed amongst themselves. At 9:00 PM, after the conclusion of the parade, § 87(2)(b) was on the sidewalk of West 127<sup>th</sup> Street and Adam Clayton Powell Jr. Boulevard. As § 87(2)(b) was walking, he saw about four or five officers converging at a point behind him. He turned and observed that a fight had broken out about six feet behind him on the street and a crowd had formed.

A uniformed officer whom the investigation was unable to identify pushed § 87(2)(b) in the mid-section of his back (**Allegation A**). § 87(2)(b) described this officer as a black male who was about 5'11" tall, medium build, and had short hair. § 87(2)(b) turned around. Another officer whom the investigation was unable to identify was standing behind the officer who had pushed § 87(2)(b). § 87(2)(b) described this officer as a black male who was black male, about 5'9" to 5'10" tall, and slim. The second officer pepper sprayed § 87(2)(b) directly on his chin and mouth (**Allegation B**). Both officers then ran towards a nearby crowd. It took § 87(2)(b) about two minutes to recover from the effects of the pepper-spray.

§ 87(2)(b) approached and asked what had happened. Both § 87(2)(b) and § 87(2)(b) were irate. § 87(2)(b) and § 87(2)(b) briefly looked for the officers in order to obtain their names and shield numbers, but were unable to find them. § 87(2)(b) suggested that they get a drink from a store located on the boulevard near West 124<sup>th</sup> Street. Less than a pint of alcohol was purchased, and again shared among three or four people, including § 87(2)(b) and § 87(2)(b). They then walked three or four blocks towards the subway station. § 87(2)(b) and his companions walked under scaffolding at the corner of West 125<sup>th</sup> Street and Lenox

They walked past approximately six or seven uniformed officers, identified through the investigation as Sgt. Christopher Siani, PO Daniel Ehrenreich, PO Richard Pengel, PO William Butler and PO Aaron Thorn from the 32<sup>nd</sup> Precinct. The officers were standing under the scaffolding. § 87(2)(b) was a few feet behind § 87(2)(b). During his interview with Internal Affairs (encl. 5a – 5c), § 87(2)(b) stated that the officers followed him and his companions. § 87(2)(b) heard § 87(2)(b) loudly scream, "Fuck the police!" They were about six feet away from the officers at this time.

§ 87(2)(b) turned around and observed Sgt. Siani running towards § 87(2)(b) who was faced away from the officer. Sgt. Siani did not say anything to § 87(2)(b). Sgt. Siani punched § 87(2)(b) on his temple by extending his arm past § 87(2)(b)'s shoulder. The punch connected with § 87(2)(b)'s temple because he had turned his head towards the officer. § 87(2)(b) then ducked his head and brought his arms up to protect his face. § 87(2)(b) never made any aggressive motions towards any of the officers or anything that could have been construed as an aggressive motion.

Sgt. Siani punched § 87(2)(b) about four to five times in his face, back, and ribcage, using both his right and left hands. Sgt. Siani was joined by PO Ehrenreich and PO Thorn, who also began to punch § 87(2)(b) on his back and head. The officers were not saying anything. § 87(2)(b) was brought to the ground by the combined punches of all officers. § 87(2)(b) may have lost consciousness. § 87(2)(b) never made any physical gestures towards any of the officers. § 87(2)(b) lay on the street with the left side of his face on the asphalt. He was bleeding somewhere on his mouth. Sgt. Siani, PO Ehrenreich and PO Thorn stomping on § 87(2)(b) several times. In § 87(2)(b)'s telephone statement (encl. 6a – 6b), he stated that the physical struggle between the officers and § 87(2)(b) lasted about three to four minutes. § 87(2)(b) was then handcuffed, though § 87(2)(b) could not say by whom. § 87(2)(b) did not resist when handcuffed.

§ 87(2)(b) and § 87(2)(b) dragged § 87(2)(b) away from the immediate scene of the incident, pushing him farther towards the subway station. A crowd began to gather around the officers, who continued to stomp on § 87(2)(b). PO Pengel and PO Butler directed this crowd to disperse. § 87(2)(b) was twenty to thirty feet away from § 87(2)(b) when the officers were stomping on him. After § 87(2)(b) was brought to the ground, a number of uniformed officers converged on the scene by foot. § 87(2)(b) did not see where they walked from and could not describe any of these officers in detail. A marked police van also arrived at the scene and two to three officers exited this vehicle. The officers which arrived by foot and in the van created a circle around § 87(2)(b) preventing § 87(2)(b) from seeing or hearing what was happening to him.

§ 87(2)(b) pulled out his camera at this time and began to record the incident. After two or three minutes, his camera ceased to function and the recording was lost. After two or three minutes, an ambulance arrived. § 87(2)(b) was not sure who or how § 87(2)(b) was placed in the ambulance as he was still too far away. § 87(2)(b) then took out his cellular telephone, which he also interchangeably referred to as a camera, and began to take pictures. He used it for three or four minutes. He was taking photographs of the badges of all of the officers who were at the scene. While taking each photograph, he was three or four feet away from each respective officer. None of the officers said anything to § 87(2)(b) while he was taking these photographs. § 87(2)(b) did not say anything to any of the officers. None of the officers issued any instructions to § 87(2)(b) whatsoever.

Sgt. Siani approached § 87(2)(b) from behind. Sgt. Siani reached behind § 87(2)(b) and, using a chopping gesture on § 87(2)(b)'s right wrist, knocked his cellular telephone from his hand (**Allegation F**). § 87(2)(b) did not know what hand Sgt. Siani used. § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-h(3). He made no mention of this injury at the time of his CCRB statement.

When knocked from his hand, the cellular telephone landed three to five feet away. All photographs § 87(2)(b) had taken of the incident were lost. § 87(2)(b) asked Sgt. Siani what he was doing. Sgt. Siani then grabbed both of § 87(2)(b)'s arms and drew them behind his back. He placed pressure and pulled downward on § 87(2)(b)'s arms so that § 87(2)(b) was gradually brought to the ground (**Allegation G**). While being pushed to the ground, § 87(2)(b)'s left ankle twisted inward towards his right foot and he sat on the street. § 87(2)(b) sat on the street with his legs extended in front of him. Sgt. Siani continued to state, "He spit on me! He spit on me!" in reference to § 87(2)(b).

§ 87(2)(b) asked § 87(2)(b) who was standing about ten feet away, to pick up his cellular telephone. § 87(2)(b) did not know if § 87(2)(b) was able to do so, as he ultimately never recovered it. Sgt. Siani was joined by PO Ehrenreich and PO Thorn. Sgt. Siani told § 87(2)(b) that he was not being arrested and would be taken to the precinct and released shortly. Sgt. Siani, PO Ehrenreich and PO Thorn placed § 87(2)(b) in a marked police van. All three officers continued to shout, "He spit on me! He spit on me!" They offered no explanation of how or when § 87(2)(b) had spit on them. § 87(2)(b) had not seen § 87(2)(b) spit on any officers. § 87(2)(b) observed that Sgt. Siani had blood on his left shoulder and PO Ehrenreich had blood on his left breast area.

§ 87(2)(b) was transported to the 28<sup>th</sup> Precinct. The ambulance containing § 87(2)(b) was still at the scene when § 87(2)(b) left. While in transport, his ankle began to swell. § 87(2)(b) told the officers that he did not want to go to the hospital because he did not want the process to draw out any longer than necessary. At the 28<sup>th</sup> Precinct, § 87(2)(b) was issued a summons for disorderly conduct and was allowed to leave. While § 87(2)(b) stated that Sgt. Siani gave him this summons, the investigation determined that PO Ehrenreich issued him the summons. § 87(2)(b) returned home.

§ 87(2)(b) went to § 87(2)(b) Hospital Center at approximately § 87(2)(b). He complained of pain to his left ankle and stated that he sustained this injury while being wrestled to the ground by the police. On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) Hospital for

follow-up care. § 87(2)(b) complained of throbbing pain to his left ankle, which was radiating to his knee, and pain in his wrists. These injuries were caused by the police. § 87(2)(b) reported that pain medication had not ameliorated the symptoms of these injuries.

§ 87(2)(b) filed a notice of claim (encl. 8a – 8f) on December 11, 2007, in order to recover money damages for being falsely arrested, physically assaulted and maliciously prosecuted. The notice of claim stated that § 87(2)(b) had sustained severe permanent personal injuries, for which he claimed the cost of hospital, physician and other medical expenses, conscious pain and suffering, absence from employment with a resultant loss therefrom and loss of quality and enjoyment of life.

§ 87(2)(b) was presented with a photo array at the CCRB on July 3, 2008 (encl. 10a – 10w). § 87(2)(b) was first presented with photo array number one, which contained three fillers and a photograph of PO Delwyn Davis of the 32<sup>nd</sup> Precinct. § 87(2)(b) did not recognize any of the filler photographs, but identified PO Davis as one of the officers who had used physical force against § 87(2)(b). § 87(2)(b) was next presented with photo array number two, which contained three fillers and a photograph of PO Aaron Thorn of the 32<sup>nd</sup> Precinct. § 87(2)(b) did not recognize any of the photographs in this array.

§ 87(2)(b) was then presented with photo array number three, which contained three fillers and a photograph of PO Kenneth McNair of the 28<sup>th</sup> Precinct. § 87(2)(b) did not recognize any of the photographs in this array. § 87(2)(b) was finally presented with photo array number four, which contained three fillers and a photograph of PO Michael Gallow of the 28<sup>th</sup> Precinct. § 87(2)(b) did not recognize any of the filler photographs. He stated that the photograph of PO Gallow resembled the officer who had used pepper-spray against him, but ultimately stated that he did not recognize PO Gallow's photograph.

### **Results of Investigation**

#### **Additional Victim Statements:**

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b). § 87(2)(b) provided statements to medical personnel on § 87(2)(b) (encl. 38a – 38b; encl. 39a – 39e; encl. 41a – 41c). § 87(2)(b) was interviewed by Internal Affairs on September 18, 2007, at 6:20 PM (encl. 11a – 11c). He was interviewed at the CCRB on November 14, 2007 (encl. 12a – 12i).

On September 16, 2007, § 87(2)(b) and his nephew, § 87(2)(b) attended the African American Day Parade. During his interview with Internal Affairs (encl. 11a – 11c), § 87(2)(b) admitted to having consumed a pint of Hennessy shortly before the incident. At approximately 10:00 PM, § 87(2)(b) and § 87(2)(b) were walking on the sidewalk of 125<sup>th</sup> Street in Manhattan, near Martin Luther King Boulevard. A small crowd of people had gathered on the sidewalk and street of 125<sup>th</sup> Street. People in this crowd began to run towards them, and § 87(2)(b) was engulfed by it. A white male officer who was about 5'6" to 5'7" tall, heavy set, and had a beard and moustache began to emit pepper spray into the crowd. § 87(2)(b) was pepper sprayed in the process. After § 87(2)(b) was pepper sprayed, both he and § 87(2)(b) began to look for the white male officer in order to obtain his shield number.

§ 87(2)(b) and § 87(2)(b) were unable to find the officer and decided to go home. They approached a nearby train station on 125<sup>th</sup> Street. § 87(2)(b) was walking three to four feet in front of § 87(2)(b). There were a few officers, identified through the investigation as Sgt. Christopher Siani, PO Daniel Ehrenreich, PO Richard Pengel, PO William Butler and PO Aaron Thorn from the 32<sup>nd</sup> Precinct, standing on the sidewalk near the corner. As he walked past the officers, § 87(2)(b) said "Fuck the police" and continued walking away.

Suddenly, § 87(2)(b) was punched from behind, physically turned around, punched in the face and somehow brought to the ground, where he felt himself being kicked (**Allegation C, D and E**). § 87(2)(b) did not know who used physical force against him. § 87(2)(b) lost consciousness. When he regained consciousness he was lying on his stomach on the sidewalk in a pool of blood. His hands were handcuffed behind his back. § 87(2)(b) did not see § 87(2)(b). He later learned that § 87(2)(b) had been arrested and taken to the 28<sup>th</sup> Precinct. Half an hour passed. During this time, none of the officers spoke with § 87(2)(b). § 87(2)(b) was not searched at the location. An ambulance arrived and § 87(2)(b) was placed in its rear. The rear doors of the ambulance remained open.

Sgt. Siani, PO Ehrenreich, PO Pengel, PO Butler and PO Thorn were standing near the rear of the van. § 87(2)(b) spit on these officers. The officers said a number of things to § 87(2)(b) which he could not recall. His spit had a considerable amount of blood in it. An EMT quickly closed the back doors of the ambulance. According to an ambulance call report (encl. 38a – 38b), § 87(2)(b)'s chief complaint was that the police had "[swear word] my lip up." § 87(2)(b) was transported § 87(2)(b) Hospital, where he was given eleven staples on his upper lip. § 87(2)(b) informed medical personnel that he had consumed alcohol (encl. 39a – 39e). § 87(2)(b) was interviewed by Internal Affairs while at § 87(2)(b) Hospital (encl. 11a – 11c).

Following his release from Central Booking on § 87(2)(b), § 87(2)(b) went to § 87(2)(b) Hospital for follow-up care. While at § 87(2)(b) Hospital (encl. 41a – 41c), § 87(2)(b) complained of worsening pain to his head and lip. He reported that he was beaten by the police and had a laceration to his lip. He stated that he was prescribed medication at § 87(2)(b) Hospital, but had yet to fill his prescription and was now experiencing severe swelling and pain to his lip. § 87(2)(b) reported that he had lost consciousness during the traumatic event.

Following the incident, § 87(2)(b) informed § 87(2)(b) that an officer had broken his camera. A physical struggle ensued between § 87(2)(b) and the officers, during which time § 87(2)(b)'s leg was injured. At the time of his interview with the CCRB, § 87(2)(b) provided photographs of his injuries which had been taken the day he was released from Central Booking. There were photos showing an abrasion to § 87(2)(b)'s cheek and elbow. § 87(2)(b) did not recall how he sustained these injuries.

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b). He provided a brief telephone statement on November 15, 2007 (encl. 14a – 14b).

On September 16, 2007, sometime in the evening, § 87(2)(b) was walking with § 87(2)(b) and a number of other friends near the corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. There were no more than ten individuals in this group. They were walking on the sidewalk. § 87(2)(b) and § 87(2)(b) were walking in front of § 87(2)(b). They passed three to four uniformed police officers standing on the right-hand side of the sidewalk. They were all white males and § 87(2)(b) could not recall their physical characteristics.

§ 87(2)(b) said something to the officers, and an argument ensued. § 87(2)(b) did not see which officer § 87(2)(b) first spoke to. § 87(2)(b) was not standing close enough to hear what that argument specifically entailed. § 87(2)(b) did hear the officers tell § 87(2)(b) and § 87(2)(b) to move on or they would be arrested. A few minutes later, § 87(2)(b) heard an officer say "Come here." § 87(2)(b) then observed § 87(2)(b) and § 87(2)(b) brought to the ground by the officers.

§ 87(2)(b) was brought to the ground by two officers. § 87(2)(b) could not provide a physical description for these officers. When § 87(2)(b) was brought to the ground, his camera fell out of his pocket. § 87(2)(b) retrieved the camera. § 87(2)(b) did not take any pictures of the incident. To his knowledge, no one recorded the incident on a cellular phone or took any photographs. The two officers

brought him to the ground by grabbing both his arms and pulling him to the sidewalk. § 87(2)(b) lay on his stomach on the sidewalk, and his hands were placed in handcuffs behind his back. § 87(2)(b) later told § 87(2)(b) that his leg had been injured as a result of the incident. § 87(2)(b)'s view of § 87(2)(b) was somewhat obstructed as there were people standing between § 87(2)(b) and § 87(2)(b) was lying a few feet from § 87(2)(b).

At this time, § 87(2)(b) observed two white male officers stomping with their feet on § 87(2)(b)'s feet. § 87(2)(b) did not recall an officer punching § 87(2)(b) stated that the two officers stomped on § 87(2)(b)'s face approximately three to four times. As a result, § 87(2)(b) began to bleed from his mouth. After the officers stopped stomping on § 87(2)(b)'s face, one of the officers held him in place by holding his foot on § 87(2)(b)'s face.

A marked police van responded to the scene and three officers exited the vehicle. Two were white males and one was a white female. These officers assisted those present in holding § 87(2)(b) and § 87(2)(b). § 87(2)(b) said that the only officers to use physical force against § 87(2)(b) and § 87(2)(b) were those officers present from the beginning of the incident, and not those who later arrived in the van. Throughout the incident, § 87(2)(b) was standing on the sidewalk. He was about ten feet from § 87(2)(b) and § 87(2)(b) shouted at the police officers several times. § 87(2)(b) told the officers that what the officers were doing was wrong, and repeatedly told them to stop. A police officer told him to be quiet or he would be arrested (**Allegation H**). § 87(2)(b) could not recall what this officer looked like. § 87(2)(b)'s friends attempted to calm him down. One of his friends is called § 87(2)(b). He could not provide any contact information for his companions.

§ 87(2)(b) and § 87(2)(b) were eventually placed in the police van. § 87(2)(b) did not recall an ambulance responding to the location. § 87(2)(b) did not recall § 87(2)(b) spitting in the general direction of any police officers. After § 87(2)(b) and § 87(2)(b) were placed in the police van, § 87(2)(b) left the location.

The investigation made the following attempts to contact § 87(2)(b). Between November 15, 2007, and June 4, 2008, five calls were placed to § 87(2)(b)'s provided number. Between May 22, 2008, and June 4, 2008, two contact letters were mailed to § 87(2)(b). The investigation was ultimately unable to obtain a formal statement from § 87(2)(b) regarding this case.

§ 87(2)(b)

§ 87(2)(b) was identified as a witness in this case by § 87(2)(b) who stated he lived in an unknown part of the Bronx. Neither § 87(2)(b) or § 87(2)(b) had any additional contact information for § 87(2)(b). Two Lexis Nexis checks were requested for § 87(2)(b) on November 15, 2007, and again on November 21, 2007. Both of these checks yielded negative results. A search of white pages on June 30, 2008, yielded one hundred and fifty-six results for the greater New York area, none of which listed any results in the Bronx. In the absence of any additional contact information, the investigator was ultimately unable to contact § 87(2)(b).

#### **Police Officer Statements:**

##### **Sgt. Christopher Siani**

Sgt. Christopher Siani is § 87(2)(b). Sgt. Siani is assigned to the 32<sup>nd</sup> Precinct and has been a member of the service for eleven years. Sgt. Siani was interviewed at the CCRB on February 15, 2008 (encl. 22a – 22c). On the day of the incident, Sgt. Siani was assigned to a detail at the African American Day Parade. He worked from 11:10 AM to 2:07 AM with PO Thorn, PO Ehrenreich and PO Pengel in marked police van 5614. Sgt. Siani's memobook (encl. 20) reflects that 11:55 PM, one individual was arrested at the corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue for disorderly conduct, resisting arrest and obstructing governmental administration. Sgt. Siani instructed PO Castillo to process this arrest.



### ***Police Reports***

An AIDED report (encl. 21a – 21e) was prepared for Sgt. Siani on September 16, 2007, in which it was reported that Sgt. Siani injured his right hand and wrist while apprehending a violent perpetrator who resisted arrest. His injury consisted of pain and swelling to his hand and wrist. Sgt. Siani refused medical attention.

### ***CCRB Statement***

On September 16, 2007, at approximately 11:00 AM, Sgt. Siani was stationed at the corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. The area was crowded and Sgt. Siani was trying to keep people moving. He was standing under scaffolding on the south side of West 125<sup>th</sup> Street on the corner of 7<sup>th</sup> Avenue with PO Thorn, PO Ehrenreich, PO Pengel and PO Butler. Three or four individuals, identified through investigation as § 87(2)(b) and § 87(2)(b) walked northbound on 7<sup>th</sup> Avenue and left onto West 125<sup>th</sup> Street on the sidewalk.

§ 87(2)(b) and § 87(2)(b) were loud, boisterous and appeared intoxicated. Sgt. Siani said that he could smell alcohol on their breath and see from their eyes and actions that they were intoxicated. Sgt. Siani instructed these individuals to move along. The group walked about ten to fifteen feet away. § 87(2)(b) then turned towards the officers, and said, “Fuck this, you’re all a bunch of fucking pussies” and said that he did not have to go anywhere. § 87(2)(b)s companions explained to the officers that he was intoxicated and stated that they would take care of him.

When § 87(2)(b) continued to scream, Sgt. Siani decided to place § 87(2)(b) under arrest for failing to comply with a lawful order to disperse, public intoxication and disorderly conduct. Sgt. Siani wanted to quickly place § 87(2)(b) under arrest before a riot broke out. Sgt. Siani did not have any discussion with the officers he was stationed with prior to approaching § 87(2)(b). Sgt. Siani explained that they were all under the understanding that § 87(2)(b) was going to be placed under arrest. Sgt. Siani may have looked at PO Thorn, and then they both approached § 87(2)(b).

Sgt. Siani walked towards § 87(2)(b) who abruptly went into a boxing stance and clenched both of his fists in front of his chest. § 87(2)(b) said, “I’m going to fuck you up.” § 87(2)(b) then drew back one of his fists. Sgt. Siani then struck § 87(2)(b) two or three times in his face. No other officers hit § 87(2)(b). No other officers used any physical force against § 87(2)(b). The remaining officers who were with Sgt. Siani approached § 87(2)(b)s companions so that they would not assist § 87(2)(b). Sgt. Siani could not state what § 87(2)(b)s companions were doing because he was focused on § 87(2)(b). It looked as though the officers were holding § 87(2)(b)s companions back.

§ 87(2)(b) fell to the ground after Sgt. Siani struck him. § 87(2)(b) was lying on the sidewalk. Sgt. Siani then handcuffed § 87(2)(b). It only took a few seconds to handcuff § 87(2)(b). Sgt. Siani was asked to comment on § 87(2)(b)s arrest report, in which it was noted that § 87(2)(b) refused to place his hands behind his back. Sgt. Siani said that he did not recall whether this occurred. After handcuffing § 87(2)(b) Sgt. Siani picked him up by his arms and brought him to a wall bordering the sidewalk. Sgt. Siani did not recall which officer assisted him in doing so. After § 87(2)(b) was handcuffed, it was not necessary to use physical force against him. None of the officers kicked § 87(2)(b). Prior to being handcuffed, none of the officers kicked § 87(2)(b).

Sgt. Siani observed that § 87(2)(b) had a cut on his lip, which was bleeding. Sgt. Siani called for an ambulance. The ambulance responded in about five to ten minutes. A crowd began to gather in the vicinity of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. § 87(2)(b)s companions were angry and belligerent. They did not have any physical contact with the officers, though they were cursing. During the time in which it took for the ambulance to respond, § 87(2)(b) continued to scream and curse. § 87(2)(b) was

intoxicated and irrational. He was also kicking in the direction of the officers. Sgt. Siani explained that, after arresting someone, general procedure dictates that the subject should be checked for possible weapons. This was not possible, due to § 87(2)(b)'s demeanor. Sgt. Siani recalled that PO Ehrenreich was kicked repeatedly in the leg. § 87(2)(b) also spit on a number of officers. Spittle landed on Sgt. Siani's right calf and spittle also landed on the back of PO Thorn's shirt. The officers who had been spit on received exposure numbers.

Sgt. Siani instructed PO Ehrenreich to keep back from § 87(2)(b) and leave him seated against the wall. Sgt. Siani instructed everyone to stand away from § 87(2)(b). Sgt. Siani, the officers he was stationed with, and the civilians in the area were all about fifteen feet away from § 87(2)(b). To the best of Sgt. Siani's knowledge, § 87(2)(b) never lost consciousness. Sgt. Siani never lost sight of § 87(2)(b) though he may have looked away a few times.

During this time, Sgt. Siani observed that § 87(2)(b) was handcuffed. Sgt. Siani did not see who handcuffed § 87(2)(b). Sgt. Siani did not know why § 87(2)(b) was handcuffed. Sgt. Siani was later informed by an officer that § 87(2)(b) would be arrested as well. § 87(2)(b) was standing ten or fifteen feet from § 87(2)(b) on the sidewalk. Neither Sgt. Siani nor his partners hit § 87(2)(b)'s hand. Sgt. Siani did not recall anything regarding a camera belonging to one of § 87(2)(b)'s companions.

When the ambulance arrived, § 87(2)(b) was placed in it. He continued to curse, called the officers 'motherfuckers' and threatened to sue them. § 87(2)(b) was transported to § 87(2)(b) Hospital. No officers could accompany him in the ambulance due to his demeanor. Sgt. Siani could not recall whether an officer followed § 87(2)(b) in a patrol vehicle. Line of duty paperwork was prepared for a number of officers. Sgt. Siani and those officers he was stationed with received exposure numbers as a result of being spit on by § 87(2)(b). PO Ehrenreich did not go to the hospital.

Sgt. Siani transported § 87(2)(b) to the 28<sup>th</sup> Precinct, accompanied by those officers he was stationed with. A warrant check was quickly conducted. This check yielded negative results. § 87(2)(b) was issued a summons for disorderly conduct. Sgt. Siani explained that § 87(2)(b) may have been refusing to move as well. Sgt. Siani did not have any contact with § 87(2)(b) after he was issued a summons. § 87(2)(b) was at the precinct for approximately fifteen minutes. Sgt. Siani went to § 87(2)(b) Hospital about half an hour after § 87(2)(b) was issued a summons. PO Castillo was guarding § 87(2)(b) at the hospital. PO Castillo later processed § 87(2)(b)'s arrest paperwork.

### **PO Daniel Ehrenreich**

PO Daniel Ehrenreich is § 87(2)(b). PO Ehrenreich is assigned to the 32<sup>nd</sup> Precinct and has been a member of the service for five years. PO Ehrenreich was interviewed at the CCRB on April 29, 2008 (encl. 31a – 31d). On the day of the incident, PO Ehrenreich was assigned to a parade detail with Sgt. Siani, PO Thorn, PO Butler and PO Pengel. He worked from 11:10 AM on September 16, 2007, to 7:25 PM on September 17, 2007. PO Ehrenreich's memobook (encl. 29) reflects that 11:55 PM, two individuals were arrested at West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. § 87(2)(b) was issued a summons for disorderly conduct and § 87(2)(b) was arrested for obstructing governmental administration, resisting arrest and disorderly conduct.

### **CCRB Statement**

On September 16, 2007, at approximately 11:00 PM, PO Ehrenreich was stationed to a fixed post on the southwest corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue with his partners. PO Ehrenreich's statement regarding the manner in which the subsequent incident was instigated was consistent with that provided by Sgt. Siani. PO Ehrenreich additionally noted that when § 87(2)(b) first came towards the officers he was waving his arms and reaching towards his pockets in what PO Ehrenreich felt was a menacing and threatening manner. § 87(2)(b)'s demeanor and movements indicated that he was possibly armed.

PO Ehrenreich and his partners instructed § 87(2)(b) to disperse and his companions pulled him away.

In contrast with Sgt. Siani's statement, PO Ehrenreich stated that § 87(2)(b) broke free from his companions about twenty feet from the officers. § 87(2)(b) charged at the officers with his fists raised and his right arm drawn back. § 87(2)(b) came within five feet of the officers. Sgt. Siani was closest to § 87(2)(b). PO Ehrenreich was next to Sgt. Siani, but he could not recall where the rest of his partners were. Sgt. Siani struck § 87(2)(b) with a closed fist three times on his face. § 87(2)(b) never made physical contact with any of the officers with his fists because Sgt. Siani struck him first. Sgt. Siani was the only officer who punched § 87(2)(b).

After he was struck by Sgt. Siani, § 87(2)(b) immediately fell face first towards the officers and onto the ground. PO Ehrenreich could not recall whether he was lying on his front or back. PO Ehrenreich and some of his partners' handcuffed § 87(2)(b). § 87(2)(b) resisted slightly by refusing to place his hands behind his back. PO Ehrenreich observed that § 87(2)(b) had a small cut on the right side of his face which was bleeding. PO Ehrenreich called for an ambulance at this time.

After § 87(2)(b) was handcuffed, he began to kick at the officers. PO Ehrenreich was struck several times in both times, primarily on his right leg. § 87(2)(b) continued to yell. PO Ehrenreich did not recall whether § 87(2)(b) was brought to a wall bordering the sidewalk, but did recall that physical force of some sort was used to prevent § 87(2)(b) from kicking the officers. None of the officers kicked § 87(2)(b).

An individual, subsequently identified as § 87(2)(b) interfered with the officers' efforts to first handcuff § 87(2)(b) and later with the officers' efforts to prevent § 87(2)(b) from kicking. § 87(2)(b) came within a few feet of the officers and was ordered several times to move back. An officer removed § 87(2)(b) from § 87(2)(b)'s vicinity and handcuffed him. PO Ehrenreich did not know which officer removed or handcuffed § 87(2)(b). At some point, the determination was made that § 87(2)(b) would be transported to the 28<sup>th</sup> Precinct. PO Ehrenreich did not know why this determination was made, though he assumed it was reached by Sgt. Siani. PO Ehrenreich did not recall anything concerning § 87(2)(b)'s cellular phone. PO Ehrenreich never knocked anything from § 87(2)(b)'s hand.

An ambulance responded to the scene about ten to fifteen minutes after it was requested. § 87(2)(b) was placed in the rear of the ambulance. PO Ehrenreich and his partners stood nearby and attempted to obtain § 87(2)(b)'s pedigree information. § 87(2)(b) began spitting on PO Thorne, PO Butler, PO Pengel, PO Ehrenreich and Sgt. Siani. Spit landed on PO Ehrenreich's uniform. Blood was intermixed with this spittle. PO Ehrenreich took photos of the blood and spittle which fell on the left shoulder of his uniform, which he provided to the investigation at the time of his interview (encl. 31d). § 87(2)(b) was then transported to a hospital. PO Ehrenreich did not accompany § 87(2)(b) to the hospital or respond to the hospital later that evening. § 87(2)(b) PO Ehrenreich explained the last charge by indicating that § 87(2)(b) had interrupted the officers' efforts to keep the corner clear. PO Ehrenreich transported § 87(2)(b) to the 28<sup>th</sup> Precinct. PO Ehrenreich issued § 87(2)(b) a summons for disorderly conduct at the precinct.

### **PO Aaron Thorn**

PO Aaron Thorn is § 87(2)(b). PO Thorn is assigned to the 32<sup>nd</sup> Precinct and has been a member of the service for fourteen years. PO Thorn was interviewed at the CCRB on March 13, 2008 (encl. 26a – 26c). On the day of the incident, PO Thorn was assigned to a parade detail with Sgt. Siani, PO Ehrenreich, PO Pengel and PO Butler. There were no entries in PO Thorn's memobook (encl. 25a – 25b) regarding the incident.

### **CCRB Statement**

On September 16, 2007, at approximately 11:00 PM, PO Thorn was standing under scaffolding at the corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue with his partners. PO Thorn's statement regarding the manner in which the subsequent incident was instigated was largely consistent with Sgt. Siani's statement. PO Thorn contrastingly stated that § 87(2)(b) broke free from his companions on two occasions. On the second of these occasions, § 87(2)(b) drew back one of his arms as though he was going to strike one of the officers. PO Thorn thought that § 87(2)(b) executed a full swing with one fist, but did not think that this swing connected with any of the officers. PO Thorn thought that Sgt. Siani was standing closest to § 87(2)(b) but was not entirely sure.

The officers approached § 87(2)(b) to place him under arrest for attempted assault of a police officer. It was not their intention to arrest § 87(2)(b) prior to witnessing him draw back his fist. PO Thorn did not know which officer reached § 87(2)(b) first. Sgt. Siani, PO Thorn and PO Pengel grabbed § 87(2)(b). PO Thorn grabbed § 87(2)(b) on the arms. § 87(2)(b) tried to move his arms away from PO Thorn's grasp. PO Thorn thought that he was in front of § 87(2)(b). PO Thorn did not know where Sgt. Siani was located with regard to § 87(2)(b). None of the officers struck § 87(2)(b). PO Thorn did not see any officers punch § 87(2)(b) in the face. § 87(2)(b) was brought to the ground by the officers' grasp on his arms. § 87(2)(b) lay on the ground. PO Thorn did not recall whether he was brought to the ground face first, or whether § 87(2)(b)'s face lay against the sidewalk once he was brought to the ground.

§ 87(2)(b) was handcuffed on the sidewalk. PO Thorn did not recall who handcuffed § 87(2)(b). This process was brief, and lasted a minute or less. PO Thorn noticed blood on the ground, and observed that § 87(2)(b) was bleeding. He could not recall from where § 87(2)(b) was bleeding. PO Thorn was presented with § 87(2)(b)'s arrest photograph. PO Thorn could not account for the manner in which § 87(2)(b)'s lip was split or how he sustained the abrasions to his left cheek. PO Thorn thought that § 87(2)(b) may have sustained these injuries when he was brought to the ground. § 87(2)(b) never lost consciousness. PO Thorn was not sure whether § 87(2)(b) was moved to a wall bordering the sidewalk.

§ 87(2)(b)'s companions were standing near § 87(2)(b). One of his companions, identified through the investigation as § 87(2)(b), attempted to intercede in the officers' actions after § 87(2)(b) was brought to the ground. § 87(2)(b) jumped into the middle of the officers. PO Thorn did not know which officers § 87(2)(b) jumped between. PO Thorn did not remember having any physical or verbal interaction with § 87(2)(b). § 87(2)(b) was handcuffed, but PO Thorn did not recall by whom or when. PO Thorn never saw § 87(2)(b) with a camera in his hands. PO Thorn never saw any of the officers hit § 87(2)(b)'s hand. § 87(2)(b) was later transported to the precinct and issued a summons. PO Thorn did not issue him this summons, and did not recall why he had been issued this summons.

After § 87(2)(b) was handcuffed, he was transported to either the precinct or the hospital. PO Thorn was asked if any of the officers were spit on. PO Thorn first said that he did not know whether any officers were spit on, and did not personally remember being spit on. Later during his statement, PO Thorn recalled that an officer had informed him that § 87(2)(b) had spit on him. PO Thorn did not recall which officer had been spit on. PO Thorn did not recall an ambulance responding to the scene. PO Thorn did not transport § 87(2)(b) or § 87(2)(b) to the precinct. After the incident, PO Thorn remained at the location for the remainder of his tour. Earlier during the day, neither PO Thorn nor any of his partners ever used his pepper spray. PO Thorn had not seen § 87(2)(b) or § 87(2)(b) before the incident.

### **PO Richard Pengel**

PO Richard Pengel is § 87(2)(b). PO Pengel is assigned to the 32<sup>nd</sup> Precinct and has been a member of the service for five years. PO Pengel was interviewed at the CCRB on May 23, 2008 (encl. 33a – 33b). On the day of the incident, PO Pengel was assigned to a parade detail with Sgt. Siani and worked from 11:10 AM

to 3:10 AM in uniform. There were no entries in PO Pengel's memobook (encl. 32a – 32b) pertaining to the incident.

### ***CCRB Statement***

On September 16, 2007, at approximately 11:00 PM, PO Pengel was stationed at a fixed post at the corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. PO Pengel's statement regarding the manner in which the subsequent incident was instigated was consistent with Sgt. Siani's statement. After breaking free from his companions, § 87(2)(b) assumed a boxing stance and held one of his fists in the air in what PO Pengel took to be a threatening stance. Sgt. Siani raised his fist and began to throw a punch towards § 87(2)(b). PO Pengel did not see this punch connect with § 87(2)(b). PO Pengel did not see any of the physical force which was used to arrest § 87(2)(b). PO Pengel turned his back to Sgt. Siani and § 87(2)(b) who were standing about five feet away, in order to keep back a forming crowd. PO Pengel could not estimate how many people were in this crowd, nor could he say whether § 87(2)(b)'s companions occupied part of this crowd. PO Pengel could not remember seeing any of his partners while he was controlling the crowd. The people in this crowd were cursing, but were compliant with PO Pengel's directions to stand back.

When PO Pengel next turned around, § 87(2)(b) was being maneuvered towards an ambulance. PO Pengel learned that an ambulance had been called because § 87(2)(b) had sustained a laceration to his lip. PO Pengel did not know who called for this ambulance or how § 87(2)(b) had sustained this injury. § 87(2)(b) never lost consciousness. § 87(2)(b) was still cursing and was spitting at the officers. He spit on Sgt. Siani, PO Butler and PO Ehrenreich. As § 87(2)(b) was being treated in the back of the ambulance by EMS, he spit at the officers again. This spittle contained blood, which landed on Sgt. Siani, PO Butler and PO Ehrenreich. PO Pengel did not know whether § 87(2)(b) resisted or spit at the officers before he was handcuffed.

PO Pengel and PO Butler accompanied § 87(2)(b) to § 87(2)(b) Hospital. § 87(2)(b) was still combative while in transport, and commented that he had been arrested under similar circumstances before. PO Pengel could not account for where Sgt. Siani, PO Ehrenreich or PO Thorn were at the time that he left the scene. PO Pengel did not have any interaction or physical contact with any of § 87(2)(b)'s companions. PO Pengel was presented with § 87(2)(b)'s photograph, which was not familiar in any way. He did not know anything concerning a summons issued to § 87(2)(b) for disorderly conduct. PO Pengel did not see an officer knock a camera out of anyone's hand. PO Pengel did not see anyone taking any photographs at the scene of the incident. PO Pengel ended his tour at St. Luke's Roosevelt Hospital.

### **PO William Butler**

PO William Butler is § 87(2)(b). PO Butler is assigned to the 32<sup>nd</sup> Precinct and has been a member of the service for four years. PO Butler was interviewed at the CCRB on March 12, 2008 (encl. 24a – 24c). On the day of the incident, PO Butler was assigned to the African American Day Parade and worked from 4:00 PM to 1:00 AM with Sgt. Siani, PO Ehrenreich, PO Pengel and PO Thorn. There were no relevant entries in PO Butler's memobook (encl. 23a – 23c) regarding the incident.

### ***CCRB Statement***

On September 16, 2007, at approximately 11:00 PM, PO Butler was stationed on the southwest corner of 125<sup>th</sup> Street and 7<sup>th</sup> Avenue with his partners. PO Butler's statement regarding the manner in which the subsequent incident was instigated was consistent with Sgt. Siani's statement. However, PO Butler contrastingly stated that he never saw § 87(2)(b) threaten the officers with the use of physical force. According to PO Butler, his partners approached § 87(2)(b) when he continued to curse at them and did not leave the area as instructed. PO Butler and PO Pengel approached § 87(2)(b)'s companions and instructed them to move back. § 87(2)(b)'s companions were compliant.

PO Butler and PO Pengel focused on keeping all of the individuals away from § 87(2)(b) and had their backs turned to their partners. One of § 87(2)(b)'s companions, identified through investigation as § 87(2)(b) took out a cellular telephone. § 87(2)(b) appeared to be taking pictures with this telephone. PO Butler asked § 87(2)(b) if he could look at his telephone. § 87(2)(b) asked why, and said that he just wanted to take pictures of the incident. PO Butler explained that he wanted to ensure that it was not a weapon. PO Butler never told § 87(2)(b) that he could not take any pictures. PO Butler explained at the time of his interview that he receives frequent police bulletins outlining the ways in which items like cellular telephones can be converted into weapons, and asked to see § 87(2)(b)'s cellular telephone for this reason. PO Butler never saw § 87(2)(b)'s cellular telephone fall to the ground. PO Butler never hit § 87(2)(b)'s telephone from his hand. PO Butler did not see any officers hit § 87(2)(b)'s telephone out of his hand. PO Butler did not have any additional contact with § 87(2)(b).

When PO Butler next saw § 87(2)(b) he was handcuffed and sitting on the sidewalk. PO Ehrenreich and Sgt. Siani were standing by him. PO Butler never saw any officers use any physical force against § 87(2)(b). PO Butler never saw any officers kick § 87(2)(b). PO Butler continued to swear. PO Butler observed that § 87(2)(b) was bleeding from his mouth. PO Butler did not know how § 87(2)(b) sustained this injury. PO Butler had not seen this injury on § 87(2)(b) before he was handcuffed.

PO Butler picked § 87(2)(b) up by the shoulders and escorted him to the wall bordering the sidewalk. PO Ehrenreich assisted him in doing so. § 87(2)(b) continued to resist by attempting to walk away. § 87(2)(b) also kicked at both officers. PO Butler restrained and kept § 87(2)(b) still by holding him on the shoulders while he was sitting against the wall. PO Butler explained that he removed § 87(2)(b) to the wall so that he would not run into the street. One of PO Butler's partners called for an ambulance some point after § 87(2)(b)'s injury had been observed.

PO Butler did not recall how long it took the ambulance to respond to the scene. During this time, one of § 87(2)(b)'s companions walked over to PO Butler. PO Butler did not recall whether this individual was § 87(2)(b)'s companion asked PO Butler if he could give § 87(2)(b) a cigarette, and said that this might calm him down. PO Butler allowed him to do so. The individual then said, "We did it, we're going to get paid for this." PO Butler's understanding of this statement was that § 87(2)(b) and his companions had deliberately started an altercation in order to file a law suit.

When the ambulance arrived, PO Butler walked § 87(2)(b) towards it. § 87(2)(b) spit on PO Butler's face while they were walking towards the ambulance. When PO Butler placed § 87(2)(b) in the ambulance, § 87(2)(b) spit on PO Butler's face again. The spittle landed on PO Butler's face on both occasions. § 87(2)(b) also spit on PO Ehrenreich at the same time that he spit on PO Butler. PO Butler received an exposure number, and thought that PO Ehrenreich may have received one as well. PO Butler and PO Pengel accompanied § 87(2)(b) to the hospital. When they left the scene, Sgt. Siani, PO Thorn and PO Ehrenreich were still on scene.

PO Butler did not know whether any summonses were issued to any of § 87(2)(b)'s companions. PO Butler ended his tour at the hospital, and did not know what happened to any of the individuals involved in the incident.

### **PO Eric Paras**

PO Eric Paras is § 87(2)(b). PO Paras was interviewed at the CCRB on March 12, 2008 (encl. 28a – 28b). PO Paras is assigned to the 32<sup>nd</sup> Precinct and has been a member of the service for fifteen years. On the day of the incident, PO Paras was assigned to a mobile response team as part of the African American Day Parade. He worked from 11:10 AM to 1:30 AM with PO Davis, PO Gordon and PO Young. There were no entries in PO Paras' memobook (encl. 27a – 27b) regarding the incident.

### ***CCRB Statement***

On September 16, 2007, at approximately 11:00 PM, PO Paras and his partners responded to a call for assistance originating from the corner of 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. PO Paras responded to the scene. PO Paras could not recall where his assigned police vehicle was parked at the scene. There were about twenty to thirty people at the location when PO Paras arrived. PO Paras may have spoken with an officer when he responded, but he could not recall doing so. There was a defendant, § 87(2)(b) in handcuffs when PO Paras arrived. § 87(2)(b) was on the sidewalk. PO Paras could not recall § 87(2)(b)'s general demeanor. PO Paras did not recall observing any injuries on § 87(2)(b). PO Paras did not remember whether § 87(2)(b) was physically resisting or kicked at any of the officers.

PO Paras assisted Sgt. Siani, PO Ehrenreich, PO Thorn, PO Pengel and PO Butler by focusing on crowd control. The general demeanor of this crowd appeared angry. PO Paras instructed people in the crowd to move back, and they generally complied. PO Paras recalled that one of the members of the crowd was using a cellular telephone to take a picture of each officer at the scene. This individual was a black male. PO Paras did not see that cellular telephone drop to the ground. PO Paras did not see any officers hit the cellular telephone from his hand. PO Paras may have had some verbal interaction with him, but did not recall speaking with him.

An ambulance responded to the location while PO Paras was on scene. PO Paras saw § 87(2)(b) placed in the ambulance. PO Paras did not recall whether or not § 87(2)(b) spit on any of the officers at this time. PO Paras was approximately twenty to thirty feet from § 87(2)(b) at this time. Once § 87(2)(b) was transported to a medical facility, PO Paras left the scene and resumed patrol. PO Paras did not issue any summonses to anyone, and did not know of any summonses being issued to any of the people in the crowd. PO Paras was not in the 28<sup>th</sup> Precinct later that evening.

### **PO Carlos Castillo**

PO Carlos Castillo is § 87(2)(b). PO Castillo declined to provide additional pedigree information. PO Castillo was interviewed at the CCRB on February 15, 2008 (encl. 19a – 19b). On the day of the incident, PO Castillo was assigned to patrol in the 32<sup>nd</sup> Precinct. He worked from 5:30 PM to 2:05 AM. PO Castillo's memobook (encl. 15a – 15c) reflects that at 1:10 AM, he was reassigned to § 87(2)(b) to guard § 87(2)(b) as per the directions of Sgt. Siani. At 1:15 AM, PO Castillo arrived at § 87(2)(b) Hospital. At 5:15 PM, he transported § 87(2)(b) to the 32<sup>nd</sup> Precinct. At 9:15 AM, he transported § 87(2)(b) to Manhattan Central Booking.

### ***Police Reports***

PO Castillo prepared an arrest report (encl. 16a – 16c) and complaint report (encl. 17a – 17b) for § 87(2)(b) in which it was noted that § 87(2)(b) was arrested on September 16, 2007, at 11:55 PM, at the southwest corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue in Manhattan. § 87(2)(b) refused to move after being asked to leave several times. When the officers went to place § 87(2)(b) under arrest for disorderly conduct, § 87(2)(b) fought and spit at the officers and also refused to place his hands behind his back. The report noted that physical force had been used to restrain, control and remove § 87(2)(b) from the scene of his arrest.

PO Castillo prepared a criminal court complaint (encl. 18a – 18b) for § 87(2)(b) in which it was noted that Sgt. Siani had informed PO Castillo that he was conducting crowd control duties at the southwest corner of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue in Manhattan following the conclusion of a parade. Sgt. Siani observed § 87(2)(b) standing on the sidewalk at said location with a group of unidentified individuals, blocking pedestrian traffic in that about fifteen people had to walk around the group to get by. When Sgt. Siani gave § 87(2)(b) an order to disperse from the location, § 87(2)(b) refused to comply. § 87(2)(b) swung a closed fist at Sgt. Siani while screaming, "Fuck you, fuck you." When Sgt. Siani attempted to place § 87(2)(b) under arrest, § 87(2)(b) twisted away, swung his arms up and down in the air, pulled his arms away from Sgt. Siani, and refused to place his hands behind his back, thereby making handcuffing difficult.

### **CCRB Statement**

On September 16, 2007, PO Castillo was assigned to patrol during the African American Day Parade. PO Castillo stated that it was necessary, at times, to control the crowd. Towards the end of the parade, those in the vicinity were generally walking to their respective homes. At no time did PO Castillo use his pepper spray. He did not see any officers use their pepper spray. PO Castillo did respond to a call regarding shots fired. He did not respond to a call originating on West 125<sup>th</sup> Street between 7<sup>th</sup> Avenue and 8<sup>th</sup> Avenue. The only call that PO Castillo could specifically recall was located at West 129<sup>th</sup> Street and 7<sup>th</sup> Avenue. PO Castillo never heard a civilian state, "Fuck the police." PO Castillo did not observe any injuries on either civilians or officers.

At approximately 11:00 PM, PO Castillo did not respond to West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. PO Castillo was presented with a photograph of § 87(2)(b). This photograph was not familiar to PO Castillo. PO Castillo was presented with a photograph of § 87(2)(b). This photograph was familiar to PO Castillo. PO Castillo explained that, at 1:10 AM, Sgt. Siani instructed PO Castillo to respond to St. Luke's Hospital to guard § 87(2)(b). At the stationhouse, there were a number of individuals whose arrests were being processed at this time. PO Castillo did not have any interaction with any prisoners. PO Castillo did not recall anyone being issued a summons at the precinct. PO Castillo guarded § 87(2)(b) from 1:15 AM to 5:15 AM at § 87(2)(b) Hospital. During that time, he did not have any verbal interaction with § 87(2)(b).

### **Police Officer Statements with No Recollection of Incident:**

The following officers were interviewed by the investigation because they were shown to have been assigned to posts near the incident location or matched a physical description.

#### **PO Delwyn Davis**

PO Delwyn Davis is § 87(2)(b). PO Davis is assigned to the 32<sup>nd</sup> Precinct and has been a member of the service for five years. PO Davis was interviewed at the CCRB on June 6, 2008 (encl. 36a – 36b). On the day of the incident, PO Davis was working with PO Paras and assigned a detail as part of the African American Day Parade. PO Davis did not have his memobook with him at the time of his interview.

#### **PO Frederic Disla**

PO Frederick Disla is § 87(2)(b). PO Disla is assigned to the 28<sup>th</sup> Precinct and has been a member of the service for two years. PO Disla was interviewed at the CCRB on February 13, 2008 (encl. 31a – 31b). On the day of the incident, PO Disla was assigned to sector patrol with PO Castillo. He worked from 3:00 PM to 11:35 PM. There were no relevant entries in PO Disla's memobook (encl. 30) regarding the incident.

#### **PO Andrew Ehlers**

PO Andrew Ehlers is § 87(2)(b). PO Ehlers is assigned to the 28<sup>th</sup> Precinct and has been a member of the service for one year. PO Ehlers was interviewed at the CCRB on February 12, 2008 (encl. 35a – 35b). On the day of the incident, PO Ehlers was assigned to foot post 2 and worked from 2:00 PM to 10:35 PM. There were no relevant entries in PO Ehlers' memobook (encl. 34a – 34b) regarding the incident.

#### **PO Kevin Lopez**



PO Kevin Lopez is § 87(2)(b). PO Lopez is assigned to the 28<sup>th</sup> Precinct and has been a member of the service for one year. PO Lopez was interviewed at the CCRB on February 12, 2008 (encl. 37a – 37b). On the day of the incident, PO Lopez worked from 2:00 PM to 10:35 PM and was assigned to foot patrol at the African American Day Parade. There were no relevant entries in his memobook (encl. 36a – 36b) regarding the incident.

#### **PO Kenneth McNair**

PO Kenneth McNair is § 87(2)(b). PO McNair is assigned to the 28<sup>th</sup> Precinct and has been a member of the service for two years. PO McNair was interviewed at the CCRB on February 12, 2008 (encl. 29a – 29b). On the day of the incident, PO McNair was assigned to a House of Worship Auto assignment with PO Cadavid. He worked from 3:00 PM to 11:35 PM in radio motor patrol vehicle 1785. There were no relevant entries in PO McNair's memobook (encl. 28a – 28b) regarding the incident.

#### **PO Ariel Castillo**

PO Ariel Castillo is § 87(2)(b). PO Castillo is assigned to the 28<sup>th</sup> Precinct and has been a member of the service for three years. PO Castillo was interviewed at the CCRB on February 19, 2008 (encl. 33a – 33b). On the day of the incident, PO Castillo was assigned to sector patrol with PO Disla in radio motor patrol vehicle 2274. He worked from 3:00 PM to 11:35 PM. There were no entries in PO Castillo's memobook (encl. 32a – 32c) related to the incident.

#### **PO Michael Gallow**

PO Michael Gallow is § 87(2)(b). PO Gallow is assigned to the 28<sup>th</sup> Precinct and has been a member of the service for five years. PO Gallow was interviewed at the CCRB on March 27, 2008 (encl. 35a – 35b). On the day of the incident, PO Gallow was assigned to sector patrol with PO Longo. There were no entries in PO Gallow's memobook (encl. 34a – 34b) regarding the incident.

#### ***CCRB Statements***

On September 16, 2007, PO Davis, Disla, PO Ehlers, PO Lopez, PO McNair, PO Castillo and PO Gallow were working on the day of the incident within the confines of the 28<sup>th</sup> Precinct and assigned to details related to the African American Day Parade. None of the officers had any recollection of the incident. None of the officers used their pepper spray or observed any officers use their pepper spray. None of the officers recalled any civilians exclaiming, "Fuck the police!" None of the officers recalled an ambulance responding to the scene. All of the officers were presented with a photograph of both § 87(2)(b) and § 87(2)(b). None of the officers found these photographs familiar in any way.

#### **Medical Records pertaining to § 87(2)(b)**

#### **Medical Treatment of Prisoner Form**

A medical treatment of prisoner form (encl. 37) prepared on September 16, 2007, for § 87(2)(b) § 87(2)(b) noted that § 87(2)(b)'s lip was cut open while fighting with the police. Medical personnel noted that § 87(2)(b) was intoxicated, did not refuse medication and was transported to the hospital with PO Pengel. § 87(2)(b) was arrested for disorderly conduct and obstructing governmental administration.

#### **Ambulance Call Report**

An ambulance call report (encl. 38a – 38b) was prepared for § 87(2)(b) on § 87(2)(b), at 11:48 PM. Medical personnel noted that § 87(2)(b) was presenting a laceration to the upper left side of his lip due to an alleged fall and assault. Medical personnel noted that § 87(2)(b) was potentially violent after spitting at or on police officers. § 87(2)(b) refused to be compliant and did not answer necessary questions. As a result, medical personnel stated that further accurate documentation could not be obtained. Medical personnel noted negative shortness of breath or loss of consciousness. His presumptive diagnosis was a soft tissue injury and alcohol abuse.

#### **§ 87(2)(b) Hospital Center Emergency Department Records**

Emergency records (encl. 39a – 39e) were prepared for § 87(2)(b) on § 87(2)(b). § 87(2)(b) was brought in by the police with a laceration to the upper left side of his lip caused by an altercation with the police. Medical personnel attributed the injury to blunt force trauma. Medical personnel found no evidence of loss of consciousness and noted that § 87(2)(b)'s neck was supple. § 87(2)(b) had no other complaints. § 87(2)(b) admitted to consuming alcohol, and medical personnel noted the smell of alcohol on his breath. § 87(2)(b) was crying, anxious and uncooperative. Medical personnel sedated § 87(2)(b) and secured his laceration with ten sutures. § 87(2)(b) was given Lorazepam, Haldol and ampicillin while at § 87(2)(b) Hospital Center. He was prescribed amoxicillin at the time of discharge.

#### **Pre-Arrest Screening Form**

A pre-arrest screening form (encl. 40a – 40b) was prepared for § 87(2)(b) on September 17, 2008. He reported that he had received stitches to his upper lip. Medical personnel noted that he was not currently injured.

#### **§ 87(2)(b) Hospital Center Triage Records**

Triage records (encl. 41a – 41c) were prepared for § 87(2)(b) on § 87(2)(b). Medical personnel noted that § 87(2)(b) was breathing evenly and had swelling and discoloration to the top of his lip. Medical personnel noted that § 87(2)(b) could barely talk, and attributed the laceration to his lip to blunt force trauma. Medical personnel noted that the laceration was three centimeters by half a centimeter and evinced possible signs of infection. Medical personnel removed § 87(2)(b)'s sutures for drainage purposes and recommended that he consult with a dentist for possible infection at the sight of the molar. § 87(2)(b) also had a small abrasion on his right elbow.

#### **Medical Records Pertaining to § 87(2)(b)**

#### **§ 87(2)(b) Hospital Center Emergency Department Records**

Emergency department records (encl. 42a – 42d) were prepared for § 87(2)(b) on § 87(2)(b). Medical personnel noted under their impressions that § 87(2)(b) had a sprain to his left foot and ankle. Medical personnel found no evidence of ecchymosis. Radiological testing found no evidence of fracture. § 87(2)(b) was instructed to keep the dressing on his foot clean and dry and was prescribe Ibuprofen.

#### **§ 87(2)(b) Hospital Records**

Medical records (encl. 43a – 43g) were prepared for § 87(2)(b) on § 87(2)(b). Medical personnel noted that § 87(2)(b) was alert and oriented. Radiological records noted that multiple MRI tomographic scans of § 87(2)(b)'s left ankle were obtained. The osseous structures were intact, and medical personnel found not evidence of fracture. Medical personnel noted that there was edema and irregularity of the anterior fibulotalar ligament at the fibular attachment which was consistent with a partial tear of this ligament. § 87(2)(b) sought follow-up care at § 87(2)(b) Hospital on § 87(2)(b).

## **Communications Records:**

### **SPRINT Record**

The SPRINT (encl. 44) and FDNY SPRINT (encl. 45) shows that on September 16, 2007, at 11:42 PM, a foot patrol requested that an ambulance respond to the intersection of West 125<sup>th</sup> Street and 7<sup>th</sup> Avenue. One assault and two arrests were reported at this location. EMS arrived at the scene on 11:48 PM. One individual was transported to § 87(2)(b) Hospital.

## **Police Department Documents:**

### **32<sup>nd</sup> Precinct Roll Call**

The roll call for September 16, 2007 (encl. 47), shows that PO Castillo was assigned to a foot post. Sgt. Siani, PO Ehrenreich, PO Thorn, PO Pengel, PO Butler, PO Davis and PO Paras did not appear on the roll call.

### **28<sup>th</sup> Precinct Roll Call**

The roll call for September 16, 2007 (encl. 46a – 46b), shows that PO Ehlers was assigned to a foot post between West 125<sup>th</sup> Street, 7<sup>th</sup> Avenue and 8<sup>th</sup> Avenue. PO Lopez was assigned to a foot post between West 125<sup>th</sup> Street and Lenox Avenue. PO Gallo was assigned to sector patrol between West 110<sup>th</sup> Street and Lenox Avenue. PO Disla and PO Castillo were assigned to sector patrol between West 125<sup>th</sup> Street and 5<sup>th</sup> and 7<sup>th</sup> Avenues. PO McNair was assigned to a house of worship detail.

### **28<sup>th</sup> Precinct Command Log**

The command log (encl. 48) for the 28<sup>th</sup> Precinct on September 16, 2007, notes that PO Ehrenreich arrested § 87(2)(b) for disorderly conduct. He was brought into the precinct at 12:01 AM on September 17, 2008, and issued a summons at 12:20 AM. His physical and mental condition was listed as apparently normal.

### **28<sup>th</sup> Precinct Prisoner Holding Pen Roster**

The holding pen roster (encl. 49) for September 16, 2007, shows that PO Ehrenreich issued § 87(2)(b) criminal summons number § 87(2)(b) and then released § 87(2)(b).

### **Arrest Photo**

§ 87(2)(b)'s arrest photo shows that he has a laceration on the upper left side of his lip and minor facial contusions along his lower right cheekbone (encl. 13).

### **Line of Duty Injury Reports**

The investigation could not locate any line of duty injury reports prepared for officers from the 32<sup>nd</sup> Precinct on the day of the incident (encl. 53h).

### **African-American Parade Detail Post Maps**

The investigation could not locate any post-maps pertaining to the African-American Day parade detail for the day of the incident (encl. 53e).

## Non-Lethal Restraining Device Reports

The investigation could not locate any non-lethal restraining device reports regarding discharged pepper-spray pertaining to the day of the incident (encl. 53c).

**Summons** § 87(2)(b) **Disposition**

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) **Notice of Claim Inquiry**

As of July 1, 2008, § 87(2)(b) has not filed a notice of claim regarding the incident (encl. 51).

## Officer CCRB History

Sgt. Christopher Siani has been a member of the service for eleven years and has had no CCRB allegations substantiated against him; PO Ehrenreich has been a member of the service for five years and has had no CCRB allegations substantiated against him; and PO Thorn has been a member of the service for fourteen years and has had no CCRB allegations substantiated against him (encl. 2a – 2d).

## Conclusions and Recommendations

### Officer Identification

§ 87(2)(b) alleged that a black male who was about 5'11" tall, medium build, and had short hair pushed him in his back and alleged that a black male who was black male, about 5'9" to 5'10" tall, and slim then pepper sprayed him. The only black male officers who were working at the time of the incident were PO Delwyn Davis and PO Aaron Thorn of the 32<sup>nd</sup> Precinct and PO Kenneth McNair and PO Michael Gallow of the 28<sup>th</sup> Precinct. All of these officers, when interviewed by the CCRB, stated that they did not use their pepper spray or see any other officers using their pepper spray on the day of the incident. On July 3, 2008, § 87(2)(b) was presented with a photo array (encl. 10a – 10w). § 87(2)(b) could not positively identify the officer who pepper sprayed him from this photo array. § 87(2)(b) (encl. 12a – 12i) contrastingly stated that it was a white male officer who was about 5'6" to 5'7" tall, heavy set and had a beard and moustache pepper sprayed § 87(2)(b). In the absence of any statements or documentary evidence, the investigation was unable to identify the officer who pushed or pepper sprayed § 87(2)(b). These allegations have therefore been pleaded against 'an officer' from an unknown command.

Statements and documentary evidence did confirm the involvement of Sgt. Christopher Siani, PO Daniel Ehrenreich, PO Richard Pengel, PO William Butler and PO Aaron Thorn on the day of the incident. As Sgt. Siani admitted to punching § 87(2)(b) a physical force allegation has been pleaded against him.

§ 87(2)(b) did not know who used physical force against him. § 87(2)(b) stated that three

officers in total used physical force against § 87(2)(b). As PO Ehrenreich and PO Thorn admitted to assisting Sgt. Siani in restraining § 87(2)(b), a physical force allegation has been pleaded against each of these officers. As § 87(2)(b) was clear in stating that the first officer who punched § 87(2)(b) also knocked his camera from his hand and used physical force against him, a discourteous action allegation and a physical force allegation have been pleaded against Sgt. Siani. § 87(2)(b) stated that an officer, whom he could not describe, threatened to arrest him. As the investigation was ultimately unable to obtain a formal statement from § 87(2)(b), this allegation has been pleaded against ‘an officer’ from an unknown command.

### Undisputed Facts

It is undisputed that § 87(2)(b) cursed at the officers and had consumed alcohol prior to the incident. It is undisputed that Sgt. Siani struck § 87(2)(b) in the face with a closed fist. It is undisputed that PO Ehrenreich and PO Thorn used physical force against § 87(2)(b). It is undisputed that § 87(2)(b) was transported to St. Luke’s Roosevelt Hospital and undisputed that § 87(2)(b) was issued a summons at the 28<sup>th</sup> Precinct for disorderly conduct.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that he was punched, physically turned around, punched in the face and brought to the ground, where he felt himself being kicked. He did not know who used physical force against him. According to § 87(2)(b) Sgt. Siani punched § 87(2)(b) about four to five times in his face, back, and ribcage, using both his right and left hands. Sgt. Siani was joined by PO Ehrenreich and PO Thorn, who also began to punch § 87(2)(b) on his back and head. § 87(2)(b) stated that § 87(2)(b) was brought to the ground by the combined punches of all officers. On the ground, Sgt. Siani, PO Ehrenreich and PO Thorn stomped on § 87(2)(b)'s body. According to § 87(2)(b) § 87(2)(b) was struck by the officers for a period of four to five minutes.

Sgt. Siani admitted to striking § 87(2)(b) with a closed fist two or three times in his face. § 87(2)(b) then fell to the ground and was handcuffed. PO Ehrenreich corroborated Sgt. Siani's statement. PO Ehrenreich stated that he assisted Sgt. Siani handcuff § 87(2)(b) by grasping his arms. PO Thorn contrastingly stated that Sgt. Siani never struck § 87(2)(b) who was brought to the ground by the officers pulling on his arms. § 87(2)(g)

From the officers' account of the incident, PO Ehrenreich and PO Thorn never punched § 87(2)(b) and no physical force was used against him after he was placed in handcuffs. According to medical records at § 87(2)(b) Hospital (encl. 39a – 39e), § 87(2)(b)'s only reported injury was a laceration to the upper left side of his lip, which received eleven sutures. Medical personnel noted that § 87(2)(b) did not lose consciousness and had no other complaints. § 87(2)(b) provided photographs (encl. 12d – 12g) of his lip which were consistent with the aforementioned injury.

The nature of § 87(2)(b)'s documented injury is consistent with Sgt. Siani's admitted use of physical force and is additionally consistent with § 87(2)(b)'s statement that he was punched at least twice. While § 87(2)(b) stated that he felt himself behind kicked, he could not elaborate on how he was kicked or who kicked him. § 87(2)(b)'s statement regarding the physical force used against § 87(2)(b) was more egregious than that articulated by § 87(2)(b) himself. Additionally, both § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) lost consciousness, while medical personnel who responded to the scene via ambulatory and medical personnel at § 87(2)(b) Hospital could find no evidence of loss of consciousness (encl. 38a – 38b; encl. 39a – 39e). There was no evidence to suggest that § 87(2)(b) was punched or kicked repeatedly after Sgt. Siani initially struck him two or three times.

§ 87(2)(b), § 87(2)(g)

The fact that § 87(2)(b) resisted was documented in his arrest report (encl. 16a – 16c), his criminal court complaint (encl. 18a – 18b), and by medical personnel, who documented in an ambulance call report (encl. 38a – 38b) that § 87(2)(b) exhibited violent behavior. Additionally, an AIDED report (encl. 21a – 21e) was prepared for Sgt. Siani on September 16, 2007, in which it was reported that Sgt. Siani injured his right hand and wrist while apprehending a violent perpetrator who resisted arrest.

According to both § 87(2)(b) and officers present at the scene of the incident, § 87(2)(b) also spit on several officers. While the investigation could not find any line of duty injury reports regarding the exposure numbers (encl. 53h), the fact that § 87(2)(b) spit on the officers was documented through photographs provided by PO Ehrenreich (encl. 31d).

§ 87(2)(b)'s sole documented injury was consistent with Sgt. Siani's admitted use of force. Additionally, as was discussed above, there was no evidence to suggest that Sgt. Siani, PO Ehrenreich and PO Thorn used physical force against § 87(2)(b) in the manner alleged by § 87(2)(b). Therefore, the investigation credited the officers' account of the incident.



As was addressed under officer identification, the investigation was ultimately unable to identify the officer who pushed § 87(2)(b) and unable to identify the officer who pepper sprayed § 87(2)(b). It § 87(2)(g)

**Allegation C. Sgt. Christopher Siani used physical force against § 87(2)(b)**

**Allegation D. PO Daniel Ehrenreich used physical force against § 87(2)(b)**

**Allegation E. PO Aaron Thorn used physical force against § 87(2)(b)**

As was addressed under the assessment of evidence, the investigation determined that § 87(2)(b) physically threatened Sgt. Siani after refusing to comply with an order to disperse. When Sgt. Siani approached § 87(2)(b) § 87(2)(b) assumed a boxing stance and clenched both of his fists in front of his chest. § 87(2)(b) then said, “I’m going to fuck you up,” while drawing back one of his fists. In response, Sgt. Siani struck § 87(2)(b) two or three times in his face.

According to §35.30 of Criminal Procedural Law, an officer “may use physical force when and to the extent he reasonably believes such to be necessary to effect the arrest...or to defend himself or a third person from what he reasonably believes to be the use of imminent use of physical force” (encl. 1a – 1c). The fact that § 87(2)(b) both verbally and physically threatened to assault Sgt. Siani reasonably suggests the imminent use of physical force. According to the Police Academy Curricula’s escalating scale of force, an officer may use impact techniques, defined as the use of batons, fists or feet, in order to counteract such assault which is likely to cause physical injury (encl. 1a – 1c). Sgt. Siani admitted to punching § 87(2)(b) two or three times in the face with a closed fist, thus demonstrating that he chose an appropriate response to the counteract a physical threat.

According to medical records at § 87(2)(b) Hospital (encl. 39a – 39e), § 87(2)(b) s only reported injury was a laceration to the upper left side of his lip, which received eleven sutures. As was addressed under the assessment of evidence, the investigation determined that § 87(2)(b) s injury was consistent with Sgt. Siani’s admitted use of force. As was addressed above, Sgt. Siani used force to counteract threatened physical assault. There was no evidence which suggested that Sgt. Siani egregiously used physical force in order to cause injury. § 87(2)(b) s sole documented injury, therefore, was the byproduct of Sgt. Siani’s defensive actions.

According to Patrol Guide Procedure 203-11, officers may use only the minimum amount of physical force necessary to overcome resistance and effect an arrest (encl. 1a – 1c). Sgt. Siani and § 87(2)(b) concurred § 87(2)(b) fell to the ground after he was punched in the face. PO Ehrenreich and PO Thorn then grasped his arms and upper body in order to handcuff them. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation F. Sgt. Christopher Siani acted rudely toward § 87(2)(b)**

As was addressed under the assessment of evidence, the investigation determined that Sgt. Siani never knocked § 87(2)(b) s cellular telephone from his hand. § 87(2)(g)

**Allegation G. Sgt. Christopher Siani used physical force against § 87(2)(b)**



§ 87(2)(g)

While none of the officers recalled the manner or circumstances under which § 87(2)(b) was handcuffed, § 87(2)(b) stated that Sgt. Siani grasped both of his arms, drew them behind his back, and pulled downward on his arms so that § 87(2)(b) was gradually brought to the ground. His statement demonstrates that the minimal amount of force necessary to handcuff him was used, as per Patrol Guide Procedure 203-11 (encl. 1a – 1c). While § 87(2)(b) alleged that his left ankle was injured when he was brought to the ground, he did not mention this to any officers on the day of the incident. § 87(2)(b)'s description regarding the manner in which his ankle was injured demonstrates that it was not the result of direct police action, but rather incidental to being drawn to the ground by his arms. § 87(2)(b), § 87(2)(g)

**Allegation H. An officer threatened to arrest § 87(2)(b)**

The investigation was ultimately unable to obtain a formal statement from § 87(2)(b) regarding the incident. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: